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SENATE

REPORT
100-415

PROVIDING THAT CERTAIN LANDS SHALL BE IN TRUST FOR THE PECHANGA BAND OF LUISENO MISSION INDIANS OF THE PECHANGA RESERVATION, CA

JULY 6, 1988.—Ordered to be printed

Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany H.R. 2615]

The Select Committee on Indian Affairs, to which was referred the bill (H.R. 2615) to provide that certain lands shall be in trust for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, CA, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

H.R. 2615 provides that the United States' interest in 235 acres of land located adjacent to the Pechanga Band's reservation in the State of California shall be held in trust for the benefit of the Pechanga Band of Luiseno Mission Indians of California as part of the Pechanga Indian Reservation.

BACKGROUND AND NEED

In 1907, the United States purchased for the benefit of the Temecula Band of Luiseno Mission Indians a 235 acre parcel of land, also known as the Kelsey Tract. This land is adjacent to the tribe's reservation, which is known as the Pechanga Indian Reservation. Under the 1907 Act, these lands were authorized for transfer into trust for the tribe after 25 years of usage. These lands, however, never were transferred into trust status after the required time period had lapsed.

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The Pechanga Band's reservation presently consists of approximately 3,858 acres of land and is located in southern Riverside County in California. The reservation lands are held in trust by the United States for the Band under a patent issued pursuant to the 1891 Mission Indian Relief Act. The majority of the Band's existing reservation lands are unsuitable for either housing or economic development since they consist almost entirely of extremely rough, dry, and remote terrain. Those tribal lands that are suitable for use have already been utilized for housing and a tribal complex.

Currently, the Pechanga Indian reservation is limited in its ability to develop the 235 acres to its full economic potential without proper trust title. As authorized under the 1907 Act, members of the Pechanga Band have always used, primarily for housing, the lands proposed for transfer into trust. The Band has also established a small vineyard and Christmas tree farm on this property. However, due to the land's non-trust status, the BIA has been unwilling to provide the needed irrigation facilities and other improvements which would enable the tribe to promote long term development and goals. The BIA, in a 1970 appraisal, estimated that the 235 acre tract was valued at $470,000 undeveloped.

LEGISLATIVE HISTORY

H.R. 2615 was introduced by Congressman McCandless of California on June 4, 1987, and was referred to the House Committee on Interior and Insular Affairs for consideration. The bill was passed by the House on August 3, 1987 and referred to the Senate Committee on Energy and Natural Resources on August 4, 1987. On April 26, 1988, the Select Committee on Indian Affairs by unanimous consent requested the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 2615, and that the bill be referred to the Select on Indian for consideration. On May 11, 1988, the bill was referred to the Select Committee on Indian Affairs for consideration. On May 11, 1988, H.R. 2615 was referred to the Senate Select Committee on Indian Affairs. There have been no hearings on this measure. However, the bill is supported by the Band and by the Administration.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session on May 26, 1988, by unanimous vote of a quorum present, ordered H.R. 2615 reported with a recommendation that the bill pass without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1. This section authorizes the transfer of lands into trust for the benefit of the Pechanga Band of Indians of California, of approximately 235 acres acquired by the United States in the Act of March 11, 1907. Lands transferred into trust will become part of the Pechanga's Reservation.

Section 2. This section requires the Secretary of the Interior to publish in the Federal Register the land description of the acreage referred to in Section 1.

COST AND BUDGETARY CONSIDERATION

The cost estimate for H.R. 2615, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 27, 1988.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2615, an act to provide that certain lands shall be in trust for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California, as ordered reported by the Senate Select Committee on Indian Affairs, May 26, 1988.

H.R. 2615 would place certain lands in trust for the Pechanga Band of Luiseno Mission Indians and require the Secretary of the Interior to publish the description of the land in the Federal Register. The effect of the legislation would be to clarify the title to this land, which is currently administered by the Department of the Interior. Based on information provided by the Bureau of Indian Affairs, we estimate that enactment of H.R. 2615 would result in no significant cost to the federal government or to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes the H.R. 2615 will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee has received the following correspondence from the Department of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, November 24, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 2615, as passed by the House, an act "To provide that certain lands shall be in trust for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California."

We support enactment of H.R. 2615.

The bill was passed by the House exactly as introduced.

The bill provides that all rights, title, and interest in approximately 235 acres of land located in Riverside County, California, shall be held in trust by the Secretary of the Interior for the Pechanga Band of Luiseno Mission Indians of California, and that such land shall be part of the Pechanga Indian Reservation. The description of the land would be published in the Federal Register.

The 235-acre tract (also known as the Kelsey Tract) was purchased in 1907 by the Secretary of the Interior under the Act of June 21, 1906 (34 Stat. 333). The Act, among other things, authorized the Secretary to purchase land for the use of the Indians in California. The title of the property, as reflected in the deed dated March 11, 1907, is currently held by the United States. The deed does not reflect any trust title whereby the beneficial or equitable title to the tract would be in the Pechanga Band. The Band now has only the right to use and occupy the tract. Additionally, the land has never been proclaimed as part of the Pechanga Reservation.

There is no existing authority to transfer the title to the Band nor is there authority subsequently to proclaim it a part of the Pechanga Reservation. The Band voted to reject the terms of the Indian Reorganization Act of June 18, 1934. Therefore, sections 5 and 7 of that Act (25 U.S.C. 465 and 467) which authorize the Secretary of the Interior to acquire land in trust and add it to Indian reservations are not available to them. If that authority were available to us, we could take this land in trust for the tribe and add it to their reservation.

The present Pechanga Reservation (also known historically at various times as the Temecula Reservation) consists of a total of 3,858.80 acres (2,625.78 acres of tribal trust land; and 1,233.02 acres of land held in trust for individual Indians). The reservation was established by trust patent on August 29, 1983, pursuant to the Act of January 12, 1891 (26 Stat. 712), and lands were added to the reservation on May 25, 1931, pursuant to the Act of February 21, 1931 (46 Stat. 1201).

Since the time of its initial purchase by the United States in 1907, it appears the Kelsey tract has always been utilized or occupied by members of the Pechanga Tribe and none of it is leased to or used by nonmembers. The record indicates that shortly after purchase of the tract the Superintendent of the Mission Agency parceled out or assigned 15-acre lots to Pechanga families. At the present time the Band has established a small vineyard and Christmas tree farm on the property. Expansion of the vineyard operation and other agricultural pursuits by the Tribe have been planned. However, it is difficult for the Tribe to obtain funding to develop the tract because the Tribe has no apparent legal right to it.

In 1970, according to a BIA appraisal, the 235-acre tract (which was characterized as undeveloped) was valued at $470,000. Since the BIA currently administers the land, there would be no additional cost for its administration after enactment of H.R. 2615.

The Administration's policy with respect to conveyance of Federally owned lands to non-Federal entities is that the Treasury should receive fair market value payment for lands so conveyed. However, in this instance, we believe an exception is warranted be-

cause the Kelsey tract was initially acquired by the Secretary for the Pechanga Band's benefit and has been used and occupied by members of the Band ever since. Given these unusual circumstances, this exception to the overall policy is warranted, but should not be viewed as a precedent for the future conveyance of any other Federal lands to non-Federal entities.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

W.P. RAGSDALE,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that there are no changes in existing law made by H.R. 2615.

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